

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re

Chapter 9

City of Detroit, Michigan,

Case No. 13-53846

Debtor.

Hon. Steven W. Rhodes

**DFFA'S RESPONSE TO COURT'S ORDER REGARDING
IDENTIFYING LEGAL ISSUES RELATING TO CONFIRMATION**

This is the Detroit Fire Fighters Association's (DFFA) response to this Court's *Order Regarding Identifying Legal Issues Relating to Confirmation* [Docket No. 5021].

On May 16, 2014, the DFFA filed Objections to the City's Fourth Amended Plan of Adjustment (POA) [Docket No. 4918]. The Detroit Police Officers Association (DPOA) joined in these DFFA Objections and also join in this response. The DFFA's May 16 Objections identify issues of pure law relating to confirmation that can be determined without the necessity of proof at the confirmation hearing.

Specifically, the issues are:

- Whether the Court has the jurisdiction or authority under Chapter 9 of the Bankruptcy Code to impose a ten (10) year *prospectively-applicable* pension plan -- a statutorily and

judicially-recognized mandatory subject of bargaining -- upon DFFA and DPOA members through the City-requested POA; and

- Whether the City's efforts to use the POA to suspend, for ten (10) years, DFFA and DPOA members' statutory bargaining rights and, correspondingly, to relieve the City of its statutorily-imposed duty to bargain is a misuse of the POA and the Bankruptcy Court.

It is a matter of pure law, determinable without the necessity of evidence, whether this Court has the jurisdiction and authority to impose a ten (10) year prospectively-applicable pension plan upon DFFA and DPOA members. Stated another way, the pure legal issue is whether this Court has the jurisdiction to engineer the City's *future* economic relationships and control yet unearned pension credit to be earned from *future* labor.

As a matter of law, this Court can decide whether it has the additional jurisdiction and authority to suspend for the next ten (10) years the DFFA's and DPOA's Public Employment Relations Act (PERA) bargaining rights to negotiate *future* pensions. M.C.L. §423.215(1). No evidence is necessary for this review.

Correspondingly, as a matter of law, this Court can decide whether it has the additional jurisdiction and authority to relieve the City for the next

ten (10) years of its statutory duty to mandatorily bargain over pensions.

M.C.L. §423.215(1). No evidence is necessary for this review, either.

As summarized in its Objections, the DFFA argues as a matter of pure law that this Court cannot enjoin for the next ten (10) years the DFFA's and DPOA's PERA bargaining rights *vis a vis* their *future* pension. Nor does it have the jurisdiction or authority to grant the City a ten (10) year moratorium on its PERA-imposed duty to bargain over pensions.

As a matter of pure law, the DFFA and the DPOA argue that this Court has no jurisdiction to engineer, participate, control, or shape *future* collective bargaining between the DFFA and the City, nor between the DPOA and the City.

These issues can clearly be determined, as a matter of law, without evidence or the "necessity of proof at the confirmation hearing."

LEGGHIO & ISRAEL, P.C.

/s/Alidz Oshagan

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Dated: May 27, 2014

CERTIFICATE OF SERVICE

I CERTIFY that on May 27, 2014 I electronically filed the **DFFA'S RESPONSE TO COURT'S ORDER REGARDING IDENTIFYING LEGAL ISSUES RELATNG TO CONFIRMATION** and this **CERTIFICATE OF SERVICE** by operation of the court's electronic filing service to all ECF participants registered to receive notice in this case.

LEGGHIO & ISRAEL, P.C.

/s/Alidz Oshagan

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